



The Honorable Kevin Brady  
Chairman, Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Richard Neal  
Ranking Member, Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman and Ranking Member Neal:

On behalf of the National Association of State Retirement Administrators (NASRA), the National Conference on Public Employee Retirement Systems (NCPERS), and the National Council on Teacher Retirement (NCTR), we are writing to relay serious concerns our memberships are expressing to us regarding Section 5001 of the Tax Cuts and Jobs Act (H.R. 1), which could subject certain investments of state and local governmental pension plans to the unrelated business income tax (UBIT). State agencies are Constitutionally exempt from taxation and application of Section 5001 to public pension plans erodes the immunity states and the federal government each enjoy from taxation by the other.

In addition to the revenue loss from the tax itself, the provision imposes significant, complex compliance costs that could impact portfolio construction and diversification of public funds. It could force the consideration of alternative and more costly investment structures in order to avoid being negatively impacted by the UBIT and may diminish investment earnings which are critical to pension funding. Furthermore, Section 5001 is currently scheduled to go into effect for tax years beginning January 1, 2018, which will impact many existing investments that cannot be restructured prior to this effective date.

Investment earnings pay for approximately two-thirds of state and local government pension benefits, which are taxed when distributed to participants across virtually every state, city and town in the nation. Subjecting public plans to the UBIT will result in a drag on these critically important investment returns, sets a dangerous precedent for taxation of state entities, and will ultimately increase costs to taxpayers. We therefore urge you to remove the application of Section 5001 to state and local retirement systems. At a minimum, the effective date of the UBIT provision should be modified to apply to only those agreements and investments entered into after the date of enactment of the legislation.

We greatly appreciate your time and consideration. If there is any additional information we can provide that would assist you, please do not hesitate to contact our representatives listed below:

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CC: The Honorable Paul Ryan  
The Honorable Kevin McCarthy  
The Honorable Steve Scalise  
The Honorable Nancy Pelosi  
The Honorable Steny Hoyer